

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of CALEB SABASTION  
MCFARLIN, a/k/a MICHAEL CALEB  
MCFARLIN, Minor.

---

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT WOODROW MCFARLIN, a/k/a  
ROBERT GUSTAVE MCFARLAND,

Respondent-Appellant,

and

NICOLE LYNN RITTENBERRY,

Respondent.

---

UNPUBLISHED  
February 24, 2004

No. 249141  
Wayne Circuit Court  
Family Division  
LC No. 96-346055

Before: Schuette, P.J., and Meter and Owens, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

**I. FACTS**

The child has never resided with his parents. He was removed from his mother's care shortly after birth. The mother, Ms. Rittenberry, admitted using heroin during her pregnancy and failed to obtain timely prenatal care. The trial court found that respondent-appellant lived with Ms. Rittenberry during her pregnancy and was also responsible for the medical neglect of the child. However, the trial court denied the petitioner's request to terminate respondent-appellant's parental rights at the initial dispositional hearing, in June 2002, and instead gave respondent-appellant the opportunity to gain custody of his son by ordering him to comply with a parent/agency agreement.

## II. STANDARD OF REVIEW

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours Minors*, 459 Mich 624; 593 NW2d 520 (1999); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision is reviewed for clear error. *Id.* at 356-357. A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). In applying the clearly erroneous standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

## III. ANALYSIS

The trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence established that at the time the termination proceedings concluded in May 2003, respondent-appellant had not resolved his own substance abuse issues. Although he completed a substance abuse treatment program, respondent-appellant tested positive for cocaine on March 20, 2003, and did not consistently comply with court-ordered random drug screens. Moreover, respondent-appellant had not demonstrated that he was able to maintain stable, suitable housing. He had lived with Ms. Rittenberry as recently as five months prior to the termination hearing and had also been homeless while the case was pending. At the time of trial, he lacked independent housing and was living with his mother. Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Respondent-appellant argues that he was not given a full and fair opportunity to be reunified with his child because of the actions and attitude of the foster care worker. The trial court considered the issue of the adversarial relationship between the worker and respondent-appellant when making its findings. We find no basis for reversal on this record.

Affirmed.

/s/ Bill Schuette  
/s/ Patrick M. Meter  
/s/ Donald S. Owens